

irrigation and that the allottee, by reason of old age or other disability, cannot personally occupy or improve his allotment or any portion thereof, such lands, or such portion thereof, may be leased for a period not exceeding ten years, under such terms, rules, and regulations as may be prescribed by the Secretary of the Interior.

(May 18, 1916, ch. 125, §1, 39 Stat. 128.)

CROSS REFERENCES

Restricted allotments authorized to be leased for farming and grazing purposes, see section 393 of this title.

§ 395. Leases of allotted lands where allottee is incapacitated

Whenever it shall be made to appear to the Secretary of the Interior that, by reason of age, disability, or inability, any allottee of Indian lands cannot personally, and with benefit to himself, occupy or improve his allotment or any part thereof, the same may be leased upon such terms, regulations, and conditions as shall be prescribed by the Secretary for a term not exceeding five years, for farming purposes only.

(May 31, 1900, ch. 598, 31 Stat. 229.)

CODIFICATION

Act May 31, 1900, is applicable to "any allottee of Indian lands" and authorizes leases "for a term not exceeding five years, for farming purposes only" and supersedes the following prior provisions:

Act June 7, 1897, ch. 3, 30 Stat. 85.
Act June 10, 1896, ch. 398, 29 Stat. 340.
Act Mar. 2, 1895, ch. 188, 28 Stat. 900.
Act Aug. 15, 1894, ch. 290, 28 Stat. 305.

OTHER LEASING PROVISIONS

Special provisions for leasing allotted lands on certain reservations named in Utah and in Wyoming, for cultivation under irrigation, were made by act Apr. 30, 1908, ch. 153, 35 Stat. 95, 97.

Special provisions permitting Indians to whom lands have been allotted on the Yakima Indian reservation in the State of Washington, to lease such lands for agricultural purposes for a term not exceeding 5 years, or unimproved lands for a term not exceeding 10 years were made by acts May 31, 1900, ch. 598, 31 Stat. 246; Mar. 1, 1899, ch. 324, 30 Stat. 941.

CROSS REFERENCES

Lands held in trust may be leased by allottee for period not to exceed five years under rules and regulations of the Secretary of the Interior, see section 403 of this title.

Leases of arid allotted lands susceptible of irrigation where Indian is unable personally to occupy and improve his allotment, see section 394 of this title.

§ 396. Leases of allotted lands for mining purposes

All lands allotted to Indians in severalty, except allotments made to members of the Five Civilized Tribes and Osage Indians in Oklahoma, may by said allottee be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior; and the Secretary of the Interior is authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this section into full force and effect: *Provided*, That if the said allottee is deceased and the heirs to or devi-

sees of any interest in the allotment have not been determined, or, if determined, some or all of them cannot be located, the Secretary of the Interior may offer for sale leases for mining purposes to the highest responsible qualified bidder, at public auction, or on sealed bids, after notice and advertisement, upon such terms and conditions as the Secretary of the Interior may prescribe. The Secretary of the Interior shall have the right to reject all bids whenever in his judgment the interests of the Indians will be served by so doing, and to readvertise such lease for sale.

(Mar. 3, 1909, ch. 263, 35 Stat. 783; Aug. 9, 1955, ch. 615, §3, 69 Stat. 540.)

AMENDMENTS

1955—Act Aug. 9, 1955, authorized Secretary of the Interior to lease allotted lands for mining purposes where the allottee is deceased and the heirs to or devisees of any interest in the allotment either have not been determined or cannot be located.

LEASES OF CERTAIN ALLOTTED LANDS

Pub. L. 105-188, §1, July 7, 1998, 112 Stat. 620, as amended by Pub. L. 106-67, §1(2), Oct. 6, 1999, 113 Stat. 979, authorized Secretary of the Interior to approve any mineral lease or agreement that affects individually owned land located within Fort Berthold Indian Reservation in North Dakota or certain former Indian reservations located in Oklahoma upon consent of majority interest and best interest determination.

CROSS REFERENCES

Lands held in trust may be leased by allottee for period not to exceed five years under rules and regulations of the Secretary of the Interior, see section 403 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 396g of this title.

§ 396a. Leases of unallotted lands for mining purposes; duration of leases

On and after May 11, 1938, unallotted lands within any Indian reservation or lands owned by any tribe, group, or band of Indians under Federal jurisdiction, except those specifically excepted from the provisions of sections 396a to 396g of this title, may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesmen for such Indians, for terms not to exceed ten years and as long thereafter as minerals are produced in paying quantities.

(May 11, 1938, ch. 198, §1, 52 Stat. 347.)

REPEAL OF INCONSISTENT ACTS

Section 7 of act May 11, 1938, provided that: "All Act [Acts] or parts of Acts inconsistent herewith are hereby repealed."

CROSS REFERENCES

Wind River Indian Reservation, administration and leasing of minerals, see note set out under section 611 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396d, 396f, 396g, 459c, 1724, 2105 of this title.